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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH SAM LEON,

Defendant and Appellant.

B235885

(Los Angeles County
Super. Ct. No. BA381439)

THE COURT:*

Defendant and appellant, Joseph Sam Leon, appeals from a judgment entered following a no contest plea to one count of second degree robbery in violation of Penal Code section 211.¹ Appellant had initially pled not guilty, but withdrew his plea on May 19, 2011, when an amended information was filed which alleged that appellant violated section 211 and further alleged that appellant had served three prior prison terms (§ 667.5, subd. (b)), suffered one prior serious felony conviction (§ 667, subd. (a)(1)) and suffered one prior “strike” (§§ 667, subds. (b)-(i) & 1170.12, subds. (a)-(d)). After expressly waiving his rights and being advised of the consequences of his plea, appellant pled no contest to the robbery count and admitted the strike allegation. The trial court

* BOREN, P. J., DOI TODD, J., CHAVEZ, J.

¹ Unless otherwise indicated, all further statutory references are to the Penal Code.

indicated that it would permit appellant to withdraw his plea if a videotape of the incident not yet provided by the prosecution contained evidence favorable to appellant.

After the prosecution provided a videotape that did not substantiate appellant's defense, the trial court sentenced appellant to six years in prison, comprised of the middle term of three years on count 1, doubled because of the strike, and dismissed the remaining allegations. Appellant received 162 days of custody credit and was ordered to pay a number of statutory fees and fines.

Appellant's notice of appeal challenged the sentence and the validity of the plea, and further asserted that his attorney failed to obtain favorable evidence. The trial court denied his request for a certificate of probable cause. We appointed counsel to represent appellant on this appeal. After examination of the record, counsel filed an opening brief which contained an acknowledgement that she had been unable to find any arguable issues. On January 12, 2012, we advised appellant that he had 30 days within which to personally submit by brief or letter any contentions or arguments that he wished us to consider. No response has been received to date.

The information was filed as a result of an incident on February 24, 2011, when Sears loss prevention agent Jesiel Otero observed appellant take and conceal watches from the jewelry and sporting goods departments. After appellant exited the store without paying, Otero approached him, identified himself as a loss prevention officer and asked for the unpaid merchandise. Appellant pushed Otero away and a struggle ensued. Ultimately, Otero recovered the watches and some perfume from appellant's pockets.

We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issue exists. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

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